The Corporation of the Town of South Bruce Peninsula

By-Law Number 39-2013

A By-Law to Authorize the Mayor and Clerk to Sign a Lease Agreement with the Wiarton & District Chamber of Commerce for the West Half of the Coal Shed Building, 402 William Street, Suite 2, Locally Known as the Wiarton Information Centre

Whereas Section 8 of the Municipal Act, 2001, Chapter 25, as amended, provides that Section 8 shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

And whereas Section 9 of the Municipal Act, 2001, Chapter 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas the Town deems it expedient to enter into a Lease Agreement with the Wiarton & District Chamber of Commerce for the West Half of the Coal Shed Building, 402 William Street, Suite 2, locally known as the Wiarton Information Centre;

Now therefore the Corporation of the Town of South Bruce Peninsula enacts as follows:

1. That the Mayor and Clerk are hereby authorized to sign a Lease Agreement with the Wiarton & District Chamber of Commerce for the West Half of the Coal Shed Building, 402 William Street, Suite 2, locally known as the Wiarton Information Centre.

2. That the Lease Agreement referred to herein shall be attached hereto and form part of this by-law.

Read a first and second time this 2nd day of April, 2013.

Mayor

Clerk

Read a third time and finally passed this 18th day of June, 2013.

Mayor

Clerk
Tenancy Lease Agreement

Between

Wiarton & District Chamber of Commerce
hereafter referred to as the Tenant

And

Town of South Bruce Peninsula,
hereafter referred to as the Town

Whereas the Town deems it expedient to enter into a lease agreement with the Wiarton & District Chamber of Commerce for the use of the West Half of the Coal Shed Building, 402 William Street, Suite 2, locally known as the Wiarton Information Centre;

And Whereas the Wiarton & District Chamber of Commerce agrees to permit the public free access to washrooms and other common areas, as designated in the Wiarton Information Centre.

Now Therefore the parties hereto agree as follows:

1. Definitions

1.1. Town means the Corporation of the Town of South Bruce Peninsula.

1.2. Agreement means this agreement and includes any bonds or security, specifications, general conditions, and any other documents referred to in this agreement or attached thereto.

1.3. Tenant or a pronoun in place thereof, means the person or persons who have undertaken to perform and carry out this agreement.

1.4. Rent means the total, all inclusive price of all rent and H.S.T. under the terms of this agreement.

2. Definition Of Contract

2.1. The Tenant shall occupy approximately 400 square feet within the West Half of the Coal Shed Building, 402 William Street, Suite 2, locally known as the Wiarton Information Centre, for the entire term of this lease.

2.2. The Tenant shall have use of the utilities available at the premises.

2.3. The Tenant is responsible for providing their own furniture, daily cleaning (keeping work area clean) and content insurance.
2.4. The Tenant shall be responsible for all costs associated with installing and using phone and Internet services.

2.5. The Tenant shall be limited to use the premises for general office purposes only and for no other purpose without the prior written consent of the Town.

2.6. The Town will provide snow removal, weekly cleaning of the facility, and washroom supplies.

2.7. The Tenant shall allow public access to: the accessible washroom facility within the building; the observation deck; the local artist displays inside the building; and other public areas or displays stipulated by the Town.

2.8. The Tenant agrees to allow public access to the facility from 8:30 am to 4:30 pm, six (6) days a week, from July 1 to October 30; four (4) days a week from November 1 to 30, and three (3) days a week from December 1 to April 30.

2.9. The Tenant agrees to allow public access to the facility during major events, such as the Wiarton Willie Festival, Canada Day celebrations, and the Santa Claus parade. The Tenant also agrees to open the washrooms during other significant events, provided that the Town provides 30 days' notice of each event.

3. Assignment And Subletting

3.1. The Tenant shall not assign or sublet the contract or any part thereof or any benefit or interest therein or thereunder without the written consent of the Town.

3.2. The Tenant shall be held as fully responsible to the Town for the acts and omissions of persons directly or indirectly employed by it.

4. Term

4.1. The term of this lease shall be for a one-year term, commencing July 1, 2013 and expiring on April 30, 2014. This lease shall be reviewed prior to the completion of the term to determine if the Town and the Tenant wish to negotiate a further term.

5. Rent

5.1. Tenant shall pay the Town without demand the sum of Four Hundred and Fifty-Two Dollars ($452.00) including H.S.T. per month as rent during the length this agreement is in force.
5.2. Payment shall be in Canadian dollars. Said rent shall be paid in monthly installments in advance on the first day of each month. Tenant agrees to pay the rent at Town Hall, 315 George Street, Wiarton ON N0H 2T0, or at such other place as Town may from time to time request.

6. Workplace Safety And Insurance Board

6.1. The Tenant shall at all times pay or cause to be paid, any assessment or compensation required to be paid pursuant to the Workplace Safety and Insurance Act and upon failure to do so, the Town may pay such assessment or compensation to the Workplace Safety and Insurance Board and shall deduct or collect such expenses under the "Monies Due" provision of this contract.

7. Monies Due To Town Of South Bruce Peninsula

7.1. All monies payable to the Town by the Tenant under any stipulation herein, or to the Workplace Safety and Insurance Board of Ontario (WSIB), as provided hereunder, may be retained out of any monies then due or which may become due from the said Town to the said Tenant under this or any other contract with the Town, or otherwise howsoever, or may be recovered from the Tenant or his surety, in any court of competent jurisdiction, as a debt due to the Town and the Town shall have full power to estimate such sum even though the amount of such sum to be so retained may be ascertained.

8. Insurance

8.1. The Tenant shall take out with an insurer licensed to carry on business in Ontario, a comprehensive policy or public liability and property damage insurance acceptable to the Town and providing insurance coverage in respect to any one person and any one accident to the limit of at least two million ($2,000,000.00) dollars, exclusive of interest and cost, against loss or damage resulting from bodily injury to or death of one or more persons and loss of or damage to property and such policy shall name the Town as an additional insured thereunder and shall protect the Town against all damage or injury including death to any person or persons and for damage to any property of the Town or any other public or private property resulting from or arising out of any act or omission on the part of the Tenant or any of his agents, workmen, employee or persons under his control, including subcontractors during the execution of this agreement. Before the commencement of any of his operations hereunder, the Tenant shall produce to the Manager of Financial Services of the Town, a certified copy of the policy or a certificate thereof. The insurance coverage noted above shall be maintained in force throughout the term of this agreement.
8.2. Security of the premises is completely and solely the responsibility of the Tenant. The Town will not be held liable due to theft or vandalism of the premises property.

9. **Indemnification By Tenant**

9.1. The Tenant hereby covenants and agrees that he will indemnify, defend and hold harmless, the Town from any and all claims, demands, suits, causes of action, losses, damages, expenses and/or any and all litigation arising out of occurrences, in or at the premises or as occasioned or suffered by the Tenant or any of his employees, agents, invitees, occupants, or other persons in attendance in or at the premises, including for any damages awarded for such claims, demands, causes of action, losses, damages and expenses or for costs or attorney’s fees, due to the error, act or omission of the Tenant.

10. **Maintenance Of Premises**

10.1. The Tenant is responsible to keep the premises in good condition throughout the term of the lease and shall be responsible for the costs of repair of damage to the premises caused by the willful or negligent conduct of the Tenant or employees of the Tenant.

10.2. The Tenant covenants to advise the Town, in writing, of any repairs or maintenance required to be done by the Town. It is further agreed that, upon written notice to the Town, the Tenant shall allow the Town a reasonable opportunity to effect repairs or maintenance that the Town is required to undertake by law or under this Lease Agreement.

11. **Improvements**

11.1. The Tenant shall not suffer or permit any valid, uncontested lien under any Act or statute to be filed or registered against the premises. The Tenant shall cause to be paid any amounts payable in respect thereof. The Town reserves the right to immediately terminate the agreement if it is determined that any valid, uncontested lien has been registered against the premises. The Tenant will ensure that all invalid and/or contested liens registered against the premises are removed from the title in an expeditious manner and that the Tenant will notify the Town immediately of any liens registered against the premises.

12. **Destruction**

12.1. In the case of damage to or total or partial destruction of the premises, the Tenant shall immediately notify the Town and may proceed to restore the property so damaged to the same condition as prevailed immediately prior
to the occurrence of such damage with such changes as may be requested by the Tenant and approved by the Town.

12.2. In the event of such destruction, the Tenant shall continue to pay to the Town such rent as set forth herein unless an abatement or diminishment is agreed to in writing by both parties.

12.3. The destruction of the premises does not release the Tenant from any obligation set forth herein and shall not constitute an immediate termination of this agreement.

13. Waste And Nuisance

13.1. The Tenant hereby covenants and agrees not to commit waste on or at the premises or allow it to be committed nor permit maintenance of a nuisance or any other noxious matter which may interfere with or affect the premises.

14. Compliance With Laws

14.1. The Tenant shall at all times during the term of this agreement comply with all local, provincial and federal laws, building, fire and sanitation regulations and codes as they affect the Tenant’s enjoyment of the premises.

14.2. The Tenant shall comply with rules and regulations pursuant to the Accessibility for Ontarians with Disabilities Act, as may be amended from time to time.

15. Surrender Of Premises

15.1. Unless otherwise agreed between the parties or unless otherwise provided for by the terms of this agreement, the Tenant hereby covenants and agrees to surrender the premises and all keys at the end of the term arranged for under this agreement, or any extension hereof, and to remove all of the Tenant’s personal property occupying the premises at the end of the term of this agreement, or any extension hereof, so that it is restored to at least the same or similar condition it was in before the Tenant first occupied it. Any and all property not removed from the premises at the end of the term of this agreement, or any extension hereof, or such other time as mutually agreed upon by both parties, will be considered to have reverted to the status of building improvements belonging to the Town or to have been abandoned as to any and all rights or claims of the Tenant, and will be at Town’s sole right of disposal.

16. Town’s Rights Of Access

16.1. In accordance with all applicable law, the Town retains the right of entry upon the premises to perform such inspections as may be required under
this agreement or which may be required from time to time in order to exercise the Town’s rights of ownership to the premises.

17. Disagreement And Arbitration

17.1. In the event of any disagreement between the parties with regard to the provisions of this agreement, the parties hereto will make every effort to come to a mutually agreed upon decision. Where a disagreement cannot be settled between the parties, either party may make application to a judge for the appointment of an arbitrator pursuant to legislation provided that such application has been made in good faith and on reasonable grounds and such application is not used for the purpose of delay by either party.

18. Bribery Or Corrupt Practice

18.1. Should the Tenant or any worker give, or offer any gratuity to, or attempt to bribe any member of the Town Council, officer or servants of the Town, the Town shall be at liberty to cancel the contract forthwith to take the whole or any part of the works out of the hands of the Tenant under the same provisions as those specified.

19. Notice

19.1. Notice shall be considered to be served, one party to the other when delivered by hand or registered mail to the last known address of the parties hereto.

20. Clauses Severable

20.1. The failure of the Town to insist upon the strict performance of any covenant of this agreement shall not waive such covenant and the waiver by the Town of any breach of any covenant of this agreement shall not waive such covenant in respect of any future or other breach.

20.2. It is intended that all provisions of this agreement shall be binding and effective. In the event that any particular provision or provisions or part of a provision is found to be void, voidable or unenforceable for any reason whatsoever, the particular provision or provisions or part of the provision shall be deemed severed from the remainder of the agreement and all other provisions shall remain in full force and effect.

21. Termination

21.1. Violation of any of the terms of this agreement shall render this contract null and void.
21.2. This contract shall remain in effect for the period stated in subsection 4.1 unless declared null and void as in subsection 21.1 or 21.4.

21.3. No notice of termination shall be accepted by either party unless served one party to the other in written or typed form.

21.4. Where the Tenant fails to pay rent to the Town, the Tenant shall be declared to be in default and breach of the agreement and the agreement shall immediately be terminated.

21.5. Where an immediate termination of the agreement occurs, the Tenant will be authorized supervised re-entry to the premises to remove fixtures and such property as is legally and rightfully belonging to the Tenant, subject to applicable law and the written approval of the Town.

21.6. The Tenant shall immediately return all keys for the facility upon termination of this contract.

In Witness Whereof the parties hereto have set their hands and seals this day of June, 2013.

Wiarton & District Chamber of Commerce          Town of South Bruce Peninsula
PO Box 68                                        315 George Street, PO Box 310
Wiarton, ON N0H 2T0                               Wiarton, ON N0H 2T0

__________________________  ______________________________
Signing Officer              Mayor John Close

__________________________  ______________________________
Witness                     Angela Cathrae, Clerk